

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STEVEN ANTHONY KERN,

Petitioner,

v.

Case No. 09-50190

Honorable David M. Lawson

Magistrate Judge R. Steven Whalen

UNITED STATES OF AMERICA, and  
KMW BOOKKEEPING SERVICE,

Respondents.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
AND DISMISSING THE PETITION TO QUASH SUMMONS**

This matter is before the Court on a report issued by Magistrate Judge R. Steven Whalen on February 23, 2010 pursuant to 28 U.S.C. § 636(b)(1)(B) and E.D. Mich. LR 72.1 recommending that the Court dismiss Mr. Kern's petition to quash summons. An express condition for the Magistrate Judge's recommendation to dismiss the petition to quash was the respondent's submission of an appropriate declaration that establishes a *prima facie* case for enforcement of subpoenas to KMW Bookkeeping Service and 5/3 Bank within seven days of the report and recommendation. The respondent filed such an appropriate declaration on February 26, 2010.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, the petitioner did not file any objections. The petitioner's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S.

140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt. # 6] is **ADOPTED** and the petition to quash summons [dkt. # 1] is **DISMISSED**

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: March 22, 2010

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 22, 2010.

s/Teresa Scott-Feijoo  
TERESA SCOTT-FEIJOO